IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 25064 of 2007(H)

PETITIONER:

K.A.SAROJA, TECHNICIAN, TRICHUR DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LTD NO.285, THRISSUR.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:

1. **THE TRICHUR DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LTD.NO.285, THRISSUR, REPRESENTED BY ITS SECRETARY.**
2. **THE MANAGING COMMITTEE OF TRICHUR DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LTD.NO.285, THRISSUR REPRESENTED THE PRESIDENT.**
3. **THE DISCIPLINARY COMMITTEE OF TRICHUR DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LTD.NO.285, THRISSUR, REPRESENTED BY ITS CONVENOR.**
4. **THE SECRETARY, TRICHUR DISTRICT CO-OPERATIVE RUBBER MARKETING SOCIETY LTD.NO.285, THRISSUR.**
5. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), THRISSUR.**

R4 & R5 BY GOVERNMENT PLEADER SRI.P.K.RAMAKRISHNAN
R1 TO R3 BY ADV. SRI.P.P.JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE CHARGE MEMO DATED 7.2.2006.

EXT.P2: COPY OF THE REPLY.

EXT.P3: COPY OF THE AFFIDAVIT.

EXT.P4: COPY OF THE ENQUIRY REPORT.

EXT.P5: COPY OF THE NOTICE DATED 7.8.2007.

EXT.P6: COPY OF THE REPLY STATEMENT DATED 15.8.2007.

EXT.P7: COPY OF THE ABOVE ORDER DATED 15.4.2005.

TRUE COPY

P.A.TO JUDGE

K.M.JOSEPH, J.

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WP.(C) No. 25064 of 2007

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Dated this the 12th day of September, 2007

JUDGMENT

Prayers in the writ petition are to quash Exts.P1 and P5 and not to implement the decision to be taken by the 3rd respondent in the matter of disciplinary action against the petitioner pursuant to Ext.P5 till the culmination of the appeal proceedings against such decision.

2. Petitioner is presently working as Technician (Grading) under the first respondent. The Enquiry Officer conducted an inquiry against the petitioner. It is stated to be done in a partisan manner. The Enquiry Officer submitted a report holding that charge Nos. 1, 2, 3 and 5 are proved and that Charge No.4 is not proved. The third respondent issued a show cause notice to the petitioner requiring her to show cause as to why a punishment of dismissal shall not be imposed on her. Petitioner submitted a reply. It is stated that meeting is to take place on 17.8.2007 to consider the reply of the petitioner. According to the petitioner the entire episode culminating in Ext.P5 are manipulated by the Secretary of the first respondent society out of his ill-will and

displeasure towards the petitioner as she objected to the misappropriation of the funds and business of the Society. It is her case that when punishment was imposed on the petitioner barring increments, she had approached the fourth respondent, who has found that the punishment is not sustainable and directed the matter to be reconsidered vide Ext.P7 and it is without considering the same that again the further increments were denied. The case is that the disciplinary authority is all set to reject the reply submitted by the petitioner. It is contended by the learned counsel for the petitioner Sri. M.Sasindran that a decision has already been taken by a resolution, which was taken by the Managing Committee terminating the petitioner. This court passed an interim order.

3. Counter affidavit is filed, in which it is inter alia stated that the Disciplinary Committee constituted has received the report, considered the same and decided to impose punishment provisionally subject to final decision to be taken after considering the explanation of the petitioner relating to the proposed punishment to be imposed. Petitioner submitted her reply. It is also stated that the Disciplinary Committee will take a final decision in the matter of punishment to be

imposed. The decision will be taken after considering the evidence, interest of the Society and the reply submitted by the petitioner. It is also stated that the writ petition is premature and liable to be dismissed.

4. I do not see any reason to interfere with Exts.P1 and P5. This should not be treated as an expression of opinion on the merits of the complaint of the petitioner and the petitioner has to work out his remedies in the appropriate forum It is quite clear that contrary to the claim of the learned counsel for the petitioner no decision has been taken by the Managing Committee. As far as the first prayer is concerned, a final decision is yet to be taken in the matter and it has certainly to be taken only after considering the explanation of the petitioner. Only after taking such a decision, the petitioner can file an appeal. Even before the same, I do not see how the petitioner can approach this court claiming the reliefs sought for in the writ petition.

The writ petition is dismissed.

(K.M. JOSEPH, JUDGE)

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